

ESTTA Tracking number: **ESTTA386664**

Filing date: **01/05/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	alpinbreeze llc
Granted to Date of previous extension	01/05/2011
Address	702 west street suite 101 wilmington, DE 19801 UNITED STATES
Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West Suite 151 Vienna, WA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:8009068626

Applicant Information

Application No	77922346	Publication date	09/07/2010
Opposition Filing Date	01/05/2011	Opposition Period Ends	01/05/2011
Applicant	EVERTEC INFORMATION TECHNOLOGY CO., LTD. 1F., No. 229, Sihwei St., Jhubei City Hsinchu County, 30242 TAIWAN		

Goods/Services Affected by Opposition


Class 011. All goods and services in the class are opposed, namely: Humidifiers, electric air deodorizers, air purifiers, electric aromatherapy machines

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85140585	Application Date	09/29/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ALPINBREEZE		

Design Mark	
Description of Mark	The mark consists of the word ALPINBREEZE with a 2 leaf design emerging from the letter B. Inside the leaf on the right is a plus sign.
Goods/Services	Class 011. First use: First Use: 2009/03/10 First Use In Commerce: 2009/03/10 humidifiers, electric air deodorizers, air purifiers, electric vaporizers, water ionizers and electric aromatherapy machines

Attachments	85140585#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (5 pages)(17556 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	01/05/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

AlpinBreeze, LLC,	:	
	:	
Opposer,	:	Opposition No. _____
	:	
vs.	:	
	:	
Evertec Information Technology Co., LTD.,	:	Serial No.: 77922346
	:	Mark: ALPINBREEZE and design
Applicant.	:	Published: September 7, 2010
_____	:	

COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VIRGINIA 22313

NOTICE OF OPPOSITION

AlpinBreeze, LLC, a corporation organized under the laws of the State of Delaware having a business address of 702 West Street, Suite 101, Wilmington, Delaware 19801 (herein after, “Opposer”) believes it will be damaged if registration is granted for the mark shown in the above-identified applications of Evertec Information Technology Co., LTD., 1F., No. 229, Sihwei Street, Jhubei City Hsinchu County, Taiwan 30242 (hereinafter “Applicant”) and hereby opposes the granting of said registration.

As grounds for this opposition, it is alleged that:

1. Opposer is the owner of the pending United State Patent and Trademark Application, Serial No. 85140585 for the mark and design ALPINBREEZE used for humidifiers, electric air deodorizers, air purifiers, electric vaporizers, water ionizers and electric aromatherapy machines.

2. Upon information and belief, Applicant, Evertec Information Technology Co. LTD., based in Taiwan, is owned and operated by You-Yi Frans Lin.

3. Prior to applying for the mark at issue, You-Yi Frans Lin was a Sales Manager for Opposer, AlpinBreeze, LLC.

4. Opposer's rights in the ALPINBREEZE trademark and design retain priority of use over the first use or priority date of Opposer's mark as more fully set forth in Application Serial No. 85140585.

5. Opposer has spent large sums of money and expended tremendous effort in promoting products under its ALPINBREEZE mark, which mark has become well known and associated exclusively with Opposer and its products. The goodwill of the business connected with the use of, and symbolized by, the ALPINBREEZE mark and design is an asset of incalculable value.

6. Upon information and belief, Applicant's ALPINBREEZE mark and design is identical to Opposer's ALPINBREEZE mark and design such that consumers are likely to conjure an association between Applicant's mark and design and Opposer's mark and design and are likely to be confused, mistaken and deceived into believing that Applicant's Goods are provided, sponsored, licensed or approved by Opposer, that Applicant's and Opposer's goods emanate from the same source and/or that Applicant is in some other fashion connected or associated with Opposer, all to Opposer's injury.

7. Upon information and belief, registration of Applicant's ALPINBREEZE mark and design will diminish and dilute the distinctive quality of Opposers's ALPINBREEZE mark and design because one viewing Applicant's mark will associate the trademark ALPINBREEZE

mark and design products of Opposer are now associated with a similar or exact product resulting in damage to Opposer.

8. Registration of the USPTO Application, Serial No. 77922346, by Applicant is barred by the provisions of 15 U.S.C. §1052(d), for the reason that it consists of or comprises a mark which so resembles Opposer's ALPINBREEZE mark and design as to be likely, when applied by the goods of Applicant, to cause confusion, mistake or to deceive.

9. Based on the representations and admissions of Applicant in the public records of the Trademark Office, on January 28, 2010, Applicant executed and filed a trademark application for the ALPINBREEZE trademark and design in the U.S. Trademark Office. In that application, Applicant falsely represented under penalty of perjury, inter alia (1) that it owned the ALPINBREEZE trademark and design, when in fact the ALPINBREEZE trademark and design was owned by Opposer not Applicant and (2) that no entity other than Applicant had the right to use the ALPINBREEZE trademark and design even though Applicant knew that the ALPINBREEZE trademark and design and goodwill was at the time of the application owned by Opposer, not Applicant.

10. By reason of the foregoing, Applicant is not entitled to registration of the ALPINBREEZE trademark and design, Serial No. 77922346 in International Class 11.

WHEREFORE, Opposer respectfully requests that the Application, Serial No. 77922346 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of the Opposer.

Respectfully submitted this 5th day of January, 2010.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

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Counsel for Applicant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

AlpinBreeze, LLC,

Opposer,

vs.

Evertec Information Technology Co., LTD.,

Applicant.

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Opposition No. _____

Serial No.: 77922346

Mark: ALPINBREEZE and design

Published: September 7, 2010

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P.O. BOX 1451
ALEXANDRIA, VIRGINIA 22313

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 5th day of January, 2010,
to be served, via first class mail, postage prepaid, upon:

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/Matthew H. Swyers/
Matthew H. Swyers